

REMARKS

Reconsideration of this application in view of the above amendments and following remarks is respectfully requested.

Status of the Claims:

By Office Action dated September 28, 2009, claims 29, 77 and 81-82 are allowed; and claims 3, 6, 17-20 and 78-80 are allowable if rewritten into independent forms. Claims 1, 4, 5, 14-16 and 22-24 stood rejected as being anticipated in view of CA Registry No. 302575-58-2 and 163126-67-8. Claim 27 stood rejected as obvious in view of U.S. Patent No. 6,136,831 (Aotsuka) and U.S. Patent No. 4,269,846 (Huang).

By way of this amendment, Applicants have canceled claim 27 and amended claims 1, 15, 23, 78-80. In particular, allowable claims 78-80 have been rewritten into independent forms. New claim 90 incorporates the language of allowable claim 6 and the base claim (claim 1). Upon entry of this amendment, claims 1, 3-6, 14-20, 22-24, 29, 77-82 and 90 are pending.

Claim Rejections – 35 U.S.C. § 102

Claims 1, 4, 5, 14-16 and 22-24 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by CA Registry No. 302575-58-2, Gorbulyenka et al., *Khimiya Geterotsiklicheskikh Soedinenii* 4: 464-471, 1994, or Nawwar et al., *Collection of Czechoslovak Chemical Communications* 60(12): 2200-2208, 1995.

More specifically, the Office Action states that claim 23 is anticipated by CA Registry No. 302575-58-2 (structure shown below)



Claim 23 has been amended to delete “heteroalkyl” from R². Amended claim 23 does not encompass CA Registry No. 302575-58-2 because its substituents of the pyrazole portion are not within the recited groups of R² or R³.

In view of the deletion of “heteroalkyl,” trifluoromethyl (CF₃) is no longer encompassed by R². Moreover, dihydroxyphenyl is not encompassed by R³ because dihydroxyphenyl is not within the meaning of “hydrocarbyl.”

Hydrocarbyl is defined as a moiety containing “solely of hydrogen and carbon” (see, paragraph [0044]). Within this definition, one type of “hydrocarbyl” (e.g., alkyl) may be further substituted by another “hydrocarbyl” (e.g., phenyl). However, the resulting hydrocarbyl (i.e., phenylalkyl) is also composed of carbon and hydrogen only (see, paragraph [0044]).

Consistent with the fact that “hydrocarbyl” is limited to hydrogen and carbon, thus cannot include hydrocarbyls substituted with moieties other than carbon and hydrogen (e.g., dihydroxyphenyl), the specification provides other terminologies for describing substituted hydrocarbyls in which the substituents are not solely carbon and hydrogen. For example, “halogen-substituted hydrocarbyl” is defined as “a hydrocarbyl group wherein one or more hydrogens has been replaced with an equal number of halogens.” (See, the end of paragraph [0044].) Moreover, “heteroalkyl” is defined as including (among other groups) “hydrocarbyl substituted with one or more groups selected from” a number of substituents, none of which contains solely of hydrogen and carbon (see, paragraph [0067]). Accordingly, because “hydrocarbyl” is composed solely of carbon and hydrogen, dihydroxyphenyl cannot be a “hydrocarbyl” of R³.

Alternatively, assuming trifluoromethyl (CF₃) represents the “halogen-substituted hydrocarbyl” of R³ (instead of R²), dihydroxyphenyl is not any of the recited groups for R² in view of the deletion of heteroalkyl.

Accordingly, because the substituents of the pyrazole portion of CA Registry No. 302575-58-2 are not encompassed by R² or R³ (regardless of their respective designations), CA Registry No. 302575-58-2 does not anticipate claim 23, as amended.

The Office Action further states that claims 1, 4, 5, 14, 15, 16 and 22-24 are anticipated by CA Registry No. 163126-67-8 (structure shown below):



Claim 1 has been amended to delete the phrase “heteroalkyl” from the definition of substituted hydrocarbyl. In addition, amended claim 1 recites a negative proviso, which excludes three compounds, namely, 4-(2-benzothiazolyl)-*N*³-(4-methylphenyl); or 1*H*-pyrazole-3,5-diamine, 4-(2-benzothiazolyl)- *N*³-phenyl. Support for the negative proviso can be found, for example, at the end of paragraph [0062] of the original specification (published as U.S. Pub. No. 2006/0247210). Claim 15 has been amended to be consistent with the amendments to claim 1.

Amended claim 1 is not anticipated by because the substituent, 2-propyl-4-methoxy-5-hydroxyphenyl group (*i.e.*, the encircled moiety in the above structure) is not within the recited groups of R³.

2-Propyl-4-methoxy-5-hydroxyphenyl is not within the meaning of “hydrocarbyl” of R³ because, the methoxy and hydroxy groups are not “solely carbon and hydrogen.”

Moreover, 2-propyl-4-methoxy-5-hydroxyphenyl is not within the meaning of “heteroalkyl” of R³. Although “heteroalkyl” of R³ can be “hydrocarbyl substituted with one or more groups selected from” a number of substituents, methoxy is not one of them.

From the foregoing, CA Registry No. 163126-67-8 does not anticipate amended claim 1 or its dependent claims, *i.e.*, claims 4, 5 14-16 and 22.

Likewise, CA Registry No. 163126-67-8 does not anticipate amended claim 23 because 2-propyl-4-methoxy-5-hydroxyphenyl is not any of the recited groups of R³. In particular, as discussed above, 2-propyl-4-methoxy-5-hydroxyphenyl is not within the meaning of “hydrocarbyl” or “halogen-substituted hydrocarbyl.”

Further, CA Registry No. 163126-67-8 does not anticipate claim 24 because 2-propyl-4-methoxy-5-hydroxyphenyl is not any of the recited groups of R³. In particular, as

discussed above, 2-propyl-4-methoxy-5-hydroxyphenyl is not within the meaning of “hydrocarbyl.”

From the foregoing, claims 1, 4, 5, 14-16 and 22-24 (as amended) are novel in view of the cited references.

Claim Rejections – 35 U.S.C. § 103

Claim 27 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,136,831 (Aotsuka) and U.S. Patent No. 4,269,846 (Huang).

Claim 27 has been canceled.

Conclusion:

By the Office Action dated September 28, 2009, claims 29, 77 and 81-82 are allowed. Allowable claims 6 and 78-80 are in appropriate independent form and therefore are now in condition for allowance. Further, as discussed above, claims 1, 4, 5, 14-16 and 22-24 (as amended) are patentable over the cited references. Accordingly, In view of the above amendments and remarks, allowance of claims 1, 3-6, 14-20, 22-24, 29, 77-82 and 90 is respectfully requested.

A good faith effort has been made to place this application in condition for allowance. However, should any further issue require attention prior to allowance, the Examiner is requested to contact the undersigned at (206) 622-4900 to resolve the same.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,
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